

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7998 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

PRADEEPKUMAR CHAUHAN

Versus

REGISTRAR

Appearance:

MR MAHENDRA K PATEL for Petitioner

MR KH BAXI for Respondents Nos. 1 & 2

MR BY MANKAD, ld.AGP for Respondent No. 3

No one appears on behalf of respondents nos.4 and 5 despite service.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 20/08/1999

ORAL JUDGEMENT

There is no dispute that the petitioner herein had passed the B.A. degree examination from the Kakatiya University, Warangal, by appearing in one sitting examination in the year 1991. There is no dispute that the said course of B.A. which was passed by the

petitioner from the Kakatiya University, Warangal was a course of three years' duration, known as B.A. (External), but there are no yearwise examinations and a student who joins such course of B.A. in Kakatiya University may pass this three years' duration course by appearing only once in an examination meaning thereby that this examination of B.A. passed by the petitioner from the Kakatiya University is a course in which a candidate after passing the 10 + 2, appears only once in the examination so as to obtain the degree of B.A., but in Gujarat University and certain other Universities also, the student has to pass three examinations in three years after passing the 10 + 2. The duration of the course of three years for such B.A. examination or that the candidate has to wait for three years after passing the 10+2 for the purpose of appearing in the examination of B.A. for such course is not important; what is important is as to whether such degree of B.A. has been obtained by appearing in three yearly examinations or only by passing one examination which is the examination as a whole for the entire course of three years? After obtaining the degree of B.A. from the Kakatiya University in one sitting examination in three years duration, it is the petitioner's case that he obtained the degree of LL.B. from Chaudhari Charan Singh University, formerly known as Meerut University. The course of LL.B. which has been passed by the petitioner from the aforesaid University of Meerut and such degree of LL.B. as has been passed by the petitioner was a degree of three years course. The petitioner being desirous of admission to prosecute the course of LL.M. while serving at the Air Force Station, Vadsar in Mehsana District as a Corporal, applied for admission to the LL.M. course to the Gujarat University. The Gujarat University did not consider the petitioner to be eligible for admission to LL.M. course and therefore, the petitioner preferred Special Civil Application No. 5930 of 1997 wherein the order to the following effect was passed on 30th April 1998 by this Court (Coram: M.S.Parikh, J.):

"1. Heard.

2. The petitioner prays in the petition that the respondent Universities be directed to give admission to the petitioner in LL.M. Course. A further prayer is made for declaration that the petitioner is eligible for such admission.

3. In the facts and circumstances of the case and having taken into account the

submissions of both the sides, it will be in the interest of justice if this Court passes following order:

The respondent University is directed to reconsider through its appropriate authority its decision on the equivalence of the examination of LL.B. passed by the petitioner on the basis of which he claims admission to the Post Graduate Course of LL.M. of the Gujarat University. Such decision shall be taken by the appropriate authority of the University as aforesaid within six weeks from the date of receipt of this direction. The concerned authority of the University will intimate its decision to the petitioner immediately.

3. Rule made absolute in the aforesaid terms with liberty to move the Court in case of difficulty. No cost."

2. Whereas the petitioner's eligibility for LL.M. course was not agreed by the Gujarat University on the ground that the petitioner had not passed the qualifying examination for admission to the LL.B. degree itself according to the equivalence of the Gujarat University inasmuch as the degree of B.A. obtained by the petitioner was a degree obtained on the basis of passing the examination in one sitting and that he had not appeared in three examinations for the B.A. course after passing the 10+2 and had obtained that degree by appearing in only one examination for the whole course of three years; it was in this context that this Court directed the Gujarat University to reconsider through its appropriate authority to take a decision on the equivalence of the examination of LL.B. passed by the petitioner on the basis of which he claims admission to the Post Graduate course of LL.M. of the Gujarat University. There is no dispute that so far as the LL.B. degree as has been obtained by the petitioner from the Chaudhari Charan Singh University, formerly known as Meerut University the same is recognised by the Gujarat University also. The Standing Committee of the equivalence of examination of the Gujarat University took a decision on 3rd July 1998 after this Court's order dated 30th April 1998 and the same was conveyed to the petitioner on 4th July 1998. The said decision taken by the Committee of equivalence of the examination was the same as it had taken earlier. The petitioner, therefore, sought revival of the original Special Civil Application No.5930 of 1997 through Misc.Civil Application No.1019 of

1998 with the prayer to annex the order dated 3rd July 1998 therein and thus, he also challenged the subsequent decision taken by the Committee of the equivalence of the examination of the Gujarat University dated 3rd July 1998. The order dated 30th April 1998 was recalled and the Special Civil Application No.5930 was revived with the liberty to the petitioner to annex the order dated 3rd July 1998 rendered by the respondent University and was permitted to challenge the same in the said petition. The order to this effect was passed on 9th July 1998 in Misc. Civil Application No.1019 of 1998. It appears that thereafter the petition came up before the Court on 4th August 1998. In the revived Special Civil Application No.5930 of 1997, on 4th August 1998, an order was passed directing the University to re-examine the petitioner's case. The matter was once again decided with a liberty to the petitioner to make one more representation to the University annexing all the documents in support of the same and that the decision of the University shall be communicated to the petitioner and the petition was disposed of. While passing this order on 4th August 1998, the Court had also observed that:

"It is also material to note that such cases are always very few and therefore apart from taking decision on merits in the instant case, the University can also consider the case of the petitioner as an exception without creating any Rule or precedent on that basis."

3. Thereafter the University considered the matter once again and an order dated 9th August 1998 has been passed which is impugned in this petition. In this petition which is filed on 21st September 1998, the Rule was issued on 22nd September 1998 by this Court and thereafter an affidavit-in-reply dated 30th December 1998 was filed along with the copies of the replies which had been filed in the earlier Special Civil Application and the decision of the Equivalence Committee. It appears that during the pendency of the petition, the notice was issued to the University Grants Commission and the Kakatiya University and a counter affidavit dated 3rd April 1999 has been filed by the Registrar of Kakatiya University and the petitioner has filed a rejoinder dated 1st February 1999. Mr.Patel, learned Counsel for the petitioner has also made a reference to a counter affidavit dated 23rd December 1998 which had been filed on behalf of the Kakatiya University in Civil Application No. 11344 of 1998 in this Special Civil Application No.7998 of 1998.

4. Learned Counsel for the petitioner has strenuously argued that once the degree of LL.B. held by the petitioner is recognised by the Gujarat University and the passing of the LL.B. is the requirement for the purpose of admission to the LL.M. course, there is no question of denying the admission to the petitioner in the course of LL.M. Mr. Baxi for the respondent University has argued with reference to the Gujarat University Hand Book, published in 1989 and he has submitted that there is no doubt that the LL.B. of Meerut University, U.P. is recognised by the Gujarat University and as would appear from page 311 of this Hand Book, the Regulation No.1 in the matters of recognition of examinations of other Universities and Statutory Examining Bodies as framed under Section 22(x) of the Act provides that in all cases in which recognition has been given to the Examinations of other Statutory Universities and Examining Bodies as equivalent to the corresponding examinations of this University, such recognition is available only to those Universities and Examining Bodies which reciprocate with this University, and applicable only to such students as have attended a regular course of study laid down for the Examination at a college affiliated to the said University or included among its constituent colleges, or at an Institution recognised by the Examining Body concerned. It is further provided that notwithstanding anything contained hereinabove external examination is deemed as equivalent to the corresponding external examination of this University, provided corresponding regular examination of that University or Board is recognised on reciprocal basis. It has been submitted that ultimately it is for the Equivalence Committee to take such decisions and in the instant case, while placing reliance on the decision taken by the Standing Committee on Equivalence of examinations held on 15th June 1998 at Item no.5 thereof, it has been clearly resolved that B.A. (External) examination of the Kakatiya University, Warangal in one sitting and thereafter LL.B. passed that is on the basis of 10+2+1 (B.A.) + 2 (LL.B. Academic) or 3 (LL.B. Prof.) = 15 years or 16 years cannot be considered to be equivalent as the students of Gujarat University have to study for a period of 17 years 10 + 2 + 3 + 2 or 3 for LL.M. course whereas the students from the Kakatiya University with B.A. (External) may have studied only for a period of 15 years or 16 years and therefore, they cannot be considered to be at par with the holders of the degree of LL.B. of the Gujarat University or equivalent thereto. To make the sense of this resolution clear:-

The students coming from Kakatiya University-
after passing 10 + 2 examination
appear

only in 1 examination for B.A.
thereafter 2 examinations in case of
LL.B. (Academic)
and 1 more examination in case of
LL.B. (Prof.)
i.e. only 3 examinations for passing
LL.B. (Academic)
and
4 examinations for passing LL.B.
(Prof.)

Whereas

The students of Gujarat University -
after passing 10 + 2 examination
appear -
in 3 examinations for B.A.
thereafter 2 examinations in case of
LL.B. (Academic)
and 1 more examination in case of LL.B.
(Prof.)

i.e. 5 examinations for passing LL.B. (Academic)
and 6 examinations for passing LL.B. (Prof.)

Therefore, for the purpose of admission to LL.M.,
students of Kakatiya University who have appeared only in
3 or 4 examinations (after passing 10 + 2) for obtaining
the degree of LL.B. can't be treated at par with the
students of Gujarat University who have to pass 5 or 6
examinations (after passing 10 + 2) for obtaining the
degree of LL.B.

5. During the course of arguments, Mr.Patel has
submitted that the course of B.A. which was passed by
the petitioner was a course of three years and merely
because he has passed that course of duration of three
years by appearing only in one sitting, i.e. by
appearing in only one examination, he cannot be now
excluded from the requirements of eligibility for the
purpose of admission to the LL.M. course because he
holds a degree of LL.B. which is recognised by the
Gujarat University itself. He has also referred to the
clarification regarding the validity of one sitting
degree from the recognised University as has been sent to
the petitioner by the Under Secretary of the University
Grants Commission. According to the contents of this
letter, it appears that those candidates who had passed
degrees by one time examination before 1995-96 may be
treated as valid and the degrees of such candidates may
be treated at par with other degrees of the same
University for all purpose including admission to higher

degrees and employment. The contents of this letter do not lend any support to the arguments to the petitioner for the simple reason that, the petitioner may have obtained the degree prior to 1995-96, i.e. in the year 1991, but according to the contents of this letter, such degree has to be treated at par with the candidates of the very same University meaning thereby that the degree held by the petitioner through external course of three years by passing the examination in one sitting will have to be considered to be valid and at par with the other degrees of Graduation by the same University, i.e. the Kakatiya University. On the basis of this letter, it is not open for the petitioner to enforce the equality of the degree of B.A. with the degree of B.A. which is obtained by the students of Gujarat. The contents of the impugned order dated 9th August 1998 clearly make a distinction between the candidates who have obtained the degree of LL.B. after passing the B.A. examination with 10+2+3 and those who have passed under the scheme 10+2+1. After all, such matters are left to be considered by the academic bodies and it is for such academic bodies to determine the equivalence of examinations for the purpose of equality and for the purpose of considering the requirements of eligibility for admission to a particular course. It is not for this Court to enter into the exercise of determination of the equivalence of examinations. It is settled law that even if two views are possible on interpretation of certain clauses or resolutions or statutes or regulations or ordinances of the University in relation to academic matters, the interpretation which has been taken by the academic bodies should not be interfered by the Courts. This Court is fortified in taking this view on the basis of the decision of the Supreme Court in the case of University of Mysore vs. Govind Rao reported in AIR 1965 SC 491 wherein while dealing with the question of equivalence of degrees in a writ of quo warranto a Constitutional Bench of five Judges of the Supreme Court has expressed in no uncertain terms that the question of equivalence of degrees is a question purely relating to academic matter and Courts would naturally hesitate to express a definite opinion, specially when a Board of experts has considered the question of equivalence of degrees.

Therefore, it would have been a different matter altogether had the concerned academic bodies of the University responded favourably to the petitioner's request on the basis of the hopeful observations made in the order dated 4th August 1998 by the Court (Coram: H.L.Gokhale, J.) when the Court had observed as under:

"It is also material to note that such cases are always very few and therefore apart from taking decision on merits in the instant case, the University can also consider the case of the petitioner as an exception without creating any Rule or precedent on that basis. The University is directed to re-examine the aspect once again."

If the academic bodies of the University have still taken a decision against the petitioner and they want to adhere to the decision which had already been taken by the Equivalence Committee and even with the aid of the observations as had been made by the Court on 4th August 1998, the academic body of the University has not been able to concede to the petitioner's request, it cannot be said that the view taken by such body of the University is unlawful or illegal in any manner. Whereas it is open for such bodies to take their own decision on the basis of the interpretation of their regulations and to treat any examination to be at par with the examinations of this University, this Court cannot sit in appeal over the decision taken by such body or to say that merely because two views are possible on an interpretation, the view other than the one taken by such bodies has to be accepted by this Court and no writ can be issued to University that it must follow the other view.

6. Learned Counsel for the petitioner, Mr. Patel has also referred to a letter dated 30th January 1996 during the course of arguments. This letter appears to be a letter written by the Association of the Indian Universities in which it has been stated at Item no.(v) that, one sitting BA/BCom (External) examination of Andhra/Kakatiya/Kurukshetra/Osmania Universities is a recognised examination, it is, however, not covered under 10+2+3 pattern of education. I fail to understand how the contents of this letter can have any impact in favour of the petitioner on the controversy in question and how this letter can be said to be binding on the Gujarat University and even if it is taken that it is a recognised examination that does not mean that every recognised examination has to be treated at par by the Equivalence Committee of the Gujarat University.

7. In the facts and circumstances of this case and for the reasons as aforesaid, I do not find any merit in this Special Civil Application. The same is hereby dismissed. The Rule is hereby discharged. No order as

to costs.

sreeram.